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OLC 72-0229

23 February 1972

MEMORANDUM FOR THE RECORD

SUBJECT: Conversation with Russ Blandford and Frank Slatinshek
Regarding H. R. 9853 (Establishing a Commission on
Classification and Protection of Information)

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1. Today [] and I met with Messrs. Blandford and Slatinshek, Chief Counsel and Assistant Chief Counsel, House Armed Services Committee, and William Hogan, of the Committee staff, regarding the above bill. I said the Director was strongly of the opinion that subjecting the Agency to the nature and effectiveness of its security procedures in the manner contemplated would make it impossible for us to maintain the security standards we believe necessary to do our job. I said for this reason we strongly recommended a complete exemption from the provisions of the bill. In support of this contention, I cited the Director's statutory responsibility for the protection of intelligence sources and methods.

2. Messrs. Blandford and Slatinshek said they fully understood our position so far as an exemption was concerned but they raised a question as to whether this statutory responsibility regarding "sources and methods" applied only to CIA, or to the intelligence community as a whole. I pointed out that the language was ambiguous in this regard, and Blandford said that unless it could be demonstrated that the language was intended to apply only to the Agency, then we would be in for a real problem since the Committee would hold the Director responsible for the security procedures of all members of the intelligence community. I recalled the legislative history of this provision, which actually arose from the concern of other intelligence agencies to ensure that the information they provided the Director was properly safeguarded by him. In concluding this part of the discussion, it was agreed that the above-mentioned provisions were fuzzy at best and we had just as well leave them that way.

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3. Regarding a complete exemption, Blandford said that despite the logic of the situation, it was politically unrealistic to think we could get such specific language without:

a. Inviting charges of "whitewash" by our oversight Subcommittee from other committees and members.

b. Allegations from the press that CIA, as the worst offender in withholding information from the public, was being given special treatment.

c. Spurring NSA, DIA and perhaps the FBI to demand similar exemption, thus making the whole process a farce.

Blandford asked whether we couldn't settle for some less specific language.

4. I asked if we could achieve our purposes of at least a de facto exemption by a provision ensuring that the Director's above-mentioned statutory authority would not be impaired, supported by appropriate legislative history. Blandford said he couldn't "guarantee" anything but said we could be sure that this particular Committee represented a sympathetic forum and would do everything possible to protect us. He added that if we received a complete exemption from the Intelligence Subcommittee, we would then be more vulnerable to subpoena by the Moorhead Subcommittee which we would find far less sympathetic. [] suggested that one solution might be for the Director himself to appear in executive session after which his testimony could be sanitized and appropriate portions made public.

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5. Blandford said the Committee was very anxious to get a witness from the Agency who could testify as to the importance of protecting the security of intelligence information. He pointed out most of the witnesses and virtually all the publicity regarding the security and classification question was on the side of declassifying and publicizing information, and that competitive witnesses had to be found to state the other side of the case. In this connection, he asked whether someone like [] Agency representative on the USIB Security Committee, might appear in behalf of the Agency.

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6. I said I thought this unlikely, and [] suggested that the Director might possibly agree to testify in executive session but permit his sanitized testimony to be made public later. Blandford seemed to think this might be a suitable solution, but emphasized that in any event they would like some solid testimony emphasizing the unique sensitivity of information relating to intelligence operations, procedures, sources and methods, perhaps illustrated with specific examples, which would justify treating intelligence information separately from any other types of classified information in the proceedings of the proposed Commission.

7. When I reported the foregoing to the Director, he said that he could not agree to testify before the Committee if his testimony was to be made public, that he already told Mr. Nedzi of his views in this matter, and that he felt the Committee should try to get their testimony on the points in question from Secretary Laird, who controlled most of the community resources and assets.

8. I called Blandford back to relay the Director's views, which Blandford received sympathetically. He said he realized we were in a dilemma--that if the Director's testimony was made public it would set a precedent, but if the Director didn't testify, the Moorhead Committee could claim that since the Nedzi Committee had failed to call CIA, and since CIA was an important factor in the whole classification and security situation, Moorhead was fully justified in stepping in.

9. I told Blandford that in any event I'd appreciate his relaying the Director's view to the Chairman and letting us know the results. Blandford said he wasn't sure the Chairman would insist that the Director's testimony in executive session be made public and that Nedzi might agree to hear the Director informally and off-the-record. I said I would mention this possibility to the Director.

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